



Rep. Elgie R. Sims, Jr.

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09800HB4751ham001

LRB098 16945 RPS 57125 a

1 AMENDMENT TO HOUSE BILL 4751

2 AMENDMENT NO. _____. Amend House Bill 4751 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Nursing Home Care Act is amended by
5 changing Sections 3-304, 3-304.2, 3-402, 3-501, and 3-502 as
6 follows:

7 (210 ILCS 45/3-304) (from Ch. 111 1/2, par. 4153-304)

8 Sec. 3-304. (a) The Department shall prepare on a quarterly
9 basis a list containing the names and addresses of all
10 facilities against which the Department during the previous
11 quarter has:

12 (1) sent a notice under Section 3-307 regarding a
13 penalty assessment under subsection (1) of Section 3-305;

14 (2) sent a notice of license revocation under Section
15 3-119;

16 (3) sent a notice refusing renewal of a license under

1 Section 3-119;

2 (4) sent a notice to suspend a license under Section
3 3-119;

4 (5) issued a conditional license for violations that
5 have not been corrected under Section 3-303 or penalties or
6 fines described under Section 3-305 have been assessed
7 under Section 3-307 or 3-308;

8 (6) placed a monitor under Section 3-304.2 ~~subsections~~
9 ~~(a), (b) and (c) of Section 3-501 and under subsection (d)~~
10 ~~of such Section where license revocation or nonrenewal~~
11 ~~notices have also been issued;~~

12 (7) initiated an action to appoint a receiver;

13 (8) recommended to the Director of Healthcare and
14 Family Services (formerly Director of the Department of
15 Public Aid), or the Secretary of the United States
16 Department of Health and Human Services, the
17 decertification for violations in relation to patient care
18 of a facility pursuant to Titles XVIII and XIX of the
19 federal Social Security Act.

20 (b) In addition to the name and address of the facility,
21 the list shall include the name and address of the person or
22 licensee against whom the action has been initiated, a
23 self-explanatory summary of the facts which warranted the
24 initiation of each action, the type of action initiated, the
25 date of the initiation of the action, the amount of the penalty
26 sought to be assessed, if any, and the final disposition of the

1 action, if completed.

2 (c) The list shall be available to any member of the public
3 upon oral or written request without charge.

4 (Source: P.A. 95-331, eff. 8-21-07.)

5 (210 ILCS 45/3-304.2)

6 Sec. 3-304.2. Designation of distressed facilities.

7 (a) Placement of monitors and receivers. Notwithstanding
8 any other provision of this Act, all monitors and receivers
9 placed in facilities licensed under this Act shall be assigned
10 in compliance with this Section. Costs associated with the
11 placement of monitors and receivers shall be paid from civil
12 monetary penalties collected by the Department.

13 (b) Development of placement criteria. The Department
14 shall task the Long-Term Care Facility Advisory Board with the
15 development of criteria, which shall include the events set
16 forth in Section 3-501 of this Act, to identify facilities in
17 which monitors shall be placed. The Long-Term Care Facility
18 Advisory Board shall, at its discretion, seek the participation
19 of individuals not formally named to the Board.

20 (c) Notice. The Department shall notify each facility in
21 writing of its designation as a distressed facility and of the
22 calculation on which it is based. The notice shall provide the
23 form and manner by which a facility may seek an appeal of this
24 designation. No further action shall be taken against the
25 facility until all rights of appeal have been exhausted.

1 (d) Plan of improvement. A facility identified as a
2 distressed facility shall have 30 days from receipt of the
3 notice or from the date that all appeals rights have been
4 exhausted, whichever is later, to submit a plan of improvement
5 to the Department. Modification to the physical structure of
6 the facility included in the plan of improvement shall not
7 require action of the Health Facilities and Services Review
8 Board.

9 (e) Compliance. The facility shall have 180 days from the
10 date the facility receives notice of the approval of the plan
11 of improvement to comply with the contents of the plan. The
12 facility may seek an amendment to the plan of improvement at
13 any time prior to achieving compliance. A facility determined
14 by the Department to have met the terms of the plan of
15 improvement shall no longer be identified as a distressed
16 facility.

17 (f) Equity grant. The Department may award a grant under
18 the Equity in Long-term Care Quality Act to a facility to
19 assist the facility in achieving compliance with the plan of
20 improvement. Grant applications shall be submitted to the
21 Department in the form and manner prescribed by the Department.
22 The application may be submitted with the plan of improvement
23 or at some later date, but must be submitted prior to
24 compliance with the plan of improvement.

25 (g) Failure to implement a plan of improvement. A facility
26 that has been determined by the Department to have failed to

1 achieve compliance with an approved plan of improvement at the
2 end of the 180 day period provided in subsection (e) or (l)
3 may, at the Department's discretion, have its name published on
4 the Department's website as a distressed facility. If the
5 Department determines that the facility is showing a good faith
6 effort to achieve compliance, the Department may, at its
7 discretion, extend the compliance period by an additional 180
8 days.

9 (h) Monitors. The Department may place a monitor in a
10 facility that has failed to achieve compliance with the
11 approved plan of improvement to oversee and assist the facility
12 in coming into compliance with the plan. The monitor shall meet
13 weekly with the facility administrator to discuss progress
14 towards achieving compliance and to agree on additional steps
15 needed for compliance. The monitor shall report to the
16 Department in writing on the outcomes of the meeting and the
17 action steps agreed to for the following week. The report shall
18 be signed by the monitor and the facility administrator. The
19 facility administrator may add comments to the report or may
20 file a separate report with the Department explaining any
21 special circumstances related to achieving full compliance
22 with the plan of improvement.

23 (i) Compliance review. The facility may seek the removal of
24 a monitor by requesting a compliance review pursuant to the
25 plan of improvement at any time after a monitor has been placed
26 in the facility. Upon receiving the request, the Department

1 shall have 30 days to respond. A facility that has achieved
2 compliance with the plan of improvement shall have its name
3 removed from the distressed facility list and the monitor shall
4 be removed from the facility.

5 (j) Appointment of a court-ordered receiver. The
6 Department, at its discretion, may seek the appointment of a
7 court-ordered receiver pursuant to Part 5 of Article III of
8 this Act.

9 (k) Mentors. The Department, at the request of an owner of
10 a facility identified as distressed, shall seek a mentor to
11 assist the owner in achieving compliance with a plan of
12 improvement.

13 (l) Purchase of a distressed facility. An individual who
14 purchases a facility that has been designated as distressed
15 shall have 60 days from the date of purchase to file a plan of
16 improvement and an additional 180 days from receipt of the
17 Department's approval to prove compliance with the plan. The
18 Department may extend this period for an additional 180 days if
19 the new owner has shown a good faith effort to achieve
20 compliance. The facility may seek approval of an amendment to
21 the plan of improvement at any time prior to compliance. The
22 facility's name shall be removed from any published list of
23 distressed facilities upon the purchase of the facility until
24 the owner has exhausted all attempts at compliance. The
25 facility may be awarded a grant as provided in subsection (f)
26 of this Section to assist in achieving compliance with the

1 plan.

2 ~~(a) By May 1, 2011, and quarterly thereafter, the~~
3 ~~Department shall generate and publish quarterly a list of~~
4 ~~distressed facilities. Criteria for inclusion of certified~~
5 ~~facilities on the list shall be those used by the U.S. General~~
6 ~~Accounting Office in report 9 689, until such time as the~~
7 ~~Department by rule modifies the criteria.~~

8 ~~(b) In deciding whether and how to modify the criteria used~~
9 ~~by the General Accounting Office, the Department shall complete~~
10 ~~a test run of any substitute criteria to determine their~~
11 ~~reliability by comparing the number of facilities identified as~~
12 ~~distressed against the number of distressed facilities~~
13 ~~generated using the criteria contained in the General~~
14 ~~Accounting Office report. The Department may not adopt~~
15 ~~substitute criteria that generate fewer facilities with a~~
16 ~~distressed designation than are produced by the General~~
17 ~~Accounting Office criteria during the test run.~~

18 ~~(c) The Department shall, by rule, adopt criteria to~~
19 ~~identify non Medicaid certified facilities that are distressed~~
20 ~~and shall publish this list quarterly beginning October 1,~~
21 ~~2011.~~

22 ~~(d) The Department shall notify each facility of its~~
23 ~~distressed designation, and of the calculation on which it is~~
24 ~~based.~~

25 ~~(e) A distressed facility may contract with an independent~~
26 ~~consultant meeting criteria established by the Department. If~~

1 ~~the distressed facility does not seek the assistance of an~~
2 ~~independent consultant, the Department shall place a monitor or~~
3 ~~a temporary manager in the facility, depending on the~~
4 ~~Department's assessment of the condition of the facility.~~

5 ~~(f) Independent consultant. A facility that has been~~
6 ~~designated a distressed facility may contract with an~~
7 ~~independent consultant to develop and assist in the~~
8 ~~implementation of a plan of improvement to bring and keep the~~
9 ~~facility in compliance with this Act and, if applicable, with~~
10 ~~federal certification requirements. A facility that contracts~~
11 ~~with an independent consultant shall have 90 days to develop a~~
12 ~~plan of improvement and demonstrate a good faith effort at~~
13 ~~implementation, and another 90 days to achieve compliance and~~
14 ~~take whatever additional actions are called for in the~~
15 ~~improvement plan to maintain compliance. A facility that the~~
16 ~~Department determines has a plan of improvement likely to bring~~
17 ~~and keep the facility in compliance and that has demonstrated~~
18 ~~good faith efforts at implementation within the first 90 days~~
19 ~~may be eligible to receive a grant under the Equity in~~
20 ~~Long-term Care Quality Act to assist it in achieving and~~
21 ~~maintaining compliance. In this subsection, "independent"~~
22 ~~consultant means an individual who has no professional or~~
23 ~~financial relationship with the facility, any person with a~~
24 ~~reportable ownership interest in the facility, or any related~~
25 ~~parties. In this subsection, "related parties" has the meaning~~
26 ~~attributed to it in the instructions for completing Medicaid~~

1 ~~cost reports.~~

2 ~~(f-5) Monitor and temporary managers. A distressed~~
3 ~~facility that does not contract with a consultant shall be~~
4 ~~assigned a monitor or a temporary manager at the Department's~~
5 ~~discretion. The cost of the temporary manager shall be paid by~~
6 ~~the facility. The temporary manager shall have the authority~~
7 ~~determined by the Department, which may grant the temporary~~
8 ~~manager any or all of the authority a court may grant a~~
9 ~~receiver. The temporary manager may apply to the Equity in~~
10 ~~Long-term Care Quality Fund for grant funds to implement the~~
11 ~~plan of improvement.~~

12 ~~(g) The Department shall by rule establish a mentor program~~
13 ~~for owners of distressed facilities.~~

14 ~~(h) The Department shall by rule establish sanctions (in~~
15 ~~addition to those authorized elsewhere in this Article) against~~
16 ~~distressed facilities that are not in compliance with this Act~~
17 ~~and (if applicable) with federal certification requirements.~~
18 ~~Criteria for imposing sanctions shall take into account a~~
19 ~~facility's actions to address the violations and deficiencies~~
20 ~~that caused its designation as a distressed facility, and its~~
21 ~~compliance with this Act and with federal certification~~
22 ~~requirements (if applicable), subsequent to its designation as~~
23 ~~a distressed facility, including mandatory revocations if~~
24 ~~criteria can be agreed upon by the Department, resident~~
25 ~~advocates, and representatives of the nursing home profession.~~
26 ~~By February 1, 2011, the Department shall report to the General~~

1 ~~Assembly on the results of negotiations about creating criteria~~
2 ~~for mandatory license revocations of distressed facilities and~~
3 ~~make recommendations about any statutory changes it believes~~
4 ~~are appropriate to protect the health, safety, and welfare of~~
5 ~~nursing home residents.~~

6 ~~(i) The Department may establish by rule criteria for~~
7 ~~restricting the owner of a facility on the distressed list from~~
8 ~~acquiring additional skilled nursing facilities.~~

9 (Source: P.A. 96-1372, eff. 7-29-10; 97-813, eff. 7-13-12.)

10 (210 ILCS 45/3-402) (from Ch. 111 1/2, par. 4153-402)

11 Sec. 3-402. Involuntary transfer or discharge of a resident
12 from a facility shall be preceded by the discussion required
13 under Section 3-408 and by a minimum written notice of 21 days,
14 except in one of the following instances:

15 (a) When an emergency transfer or discharge is ordered by
16 the resident's attending physician because of the resident's
17 physical or mental health care needs.

18 (b) When the transfer or discharge is mandated by the
19 physical safety of other residents, the facility staff, or
20 facility visitors, as documented in the clinical record. The
21 Department shall be notified prior to any such involuntary
22 transfer or discharge. The Department shall immediately offer
23 transfer, or discharge and relocation assistance to residents
24 transferred or discharged under this subparagraph (b), and the
25 Department may place relocation teams as provided in Section

1 3-419 of this Act.

2 (c) When an identified offender is within the provisional
3 admission period defined in Section 1-120.3. If the Identified
4 Offender Report and Recommendation prepared under Section
5 2-201.6 shows that the identified offender poses a serious
6 threat or danger to the physical safety of other residents, the
7 facility staff, or facility visitors in the admitting facility
8 and the facility determines that it is unable to provide a safe
9 environment for the other residents, the facility staff, or
10 facility visitors, the facility shall transfer or discharge the
11 identified offender within 3 days after its receipt of the
12 Identified Offender Report and Recommendation.

13 (Source: P.A. 96-1372, eff. 7-29-10.)

14 (210 ILCS 45/3-501) (from Ch. 111 1/2, par. 4153-501)

15 Sec. 3-501. The Department may place an employee or agent
16 to serve as a monitor in a facility or may petition the circuit
17 court for appointment of a receiver for a facility, or both,
18 when any of the following conditions exist:

19 (a) The facility is operating without a license;

20 (b) The Department has suspended, revoked or refused to
21 renew the existing license of the facility;

22 (c) The facility is closing or has informed the
23 Department that it intends to close and adequate
24 arrangements for relocation of residents have not been made
25 at least 30 days prior to closure;

1 (d) The Department determines that an emergency
2 exists, whether or not it has initiated revocation or
3 nonrenewal procedures, if because of the unwillingness or
4 inability of the licensee to remedy the emergency the
5 Department believes a monitor or receiver is necessary;

6 (e) The Department is notified that the facility is
7 terminated or will not be renewed for participation in the
8 federal reimbursement program under either Title XVIII or
9 Title XIX of the Social Security Act; or

10 (f) (Blank). ~~The facility has been designated a~~
11 ~~distressed facility by the Department and does not have a~~
12 ~~consultant employed pursuant to subsection (f) of Section~~
13 ~~3-304.2 and an acceptable plan of improvement, or the~~
14 ~~Department has reason to believe the facility is not~~
15 ~~complying with the plan of improvement. Nothing in this~~
16 ~~paragraph (f) shall preclude the Department from placing a~~
17 ~~monitor in a facility if otherwise justified by law.~~

18 As used in subsection (d) and Section 3-503, "emergency"
19 means a threat to the health, safety or welfare of a resident
20 that the facility is unwilling or unable to correct.

21 (Source: P.A. 96-1372, eff. 7-29-10.)

22 (210 ILCS 45/3-502) (from Ch. 111 1/2, par. 4153-502)

23 Sec. 3-502. Pursuant to Section 3-304.2 of this Act and
24 taking into account ~~In~~ any situation described in Section
25 3-501, the Department may place a qualified person to act as

1 monitor in the facility. The monitor shall, in compliance with
2 Section 3-304.2 of this Act and all rules adopted thereunder,
3 observe operation of the facility, assist the facility by
4 advising it on how to comply with the State regulations, and
5 shall report periodically to the Department on the operation of
6 the facility.

7 (Source: P.A. 81-223.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law."